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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

THOMPSON, MARC D

ART UNIT PAPER NUMBER

2144

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/731,019

Applicant(s)

WILSON, DAVID J.

Examiner

Marc D. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. The response (amendment), received on 6/1/2004, has been entered into record.
2. Claims 1-2, and 7-17 are now pending.

#### ***Priority***

3. This application claims priority to provisional application 60/170,362 under Title 35 U.S.C. § 120.
4. The effective filing date for the subject matter defined in the pending claims in this application which have support in the provisional application, is 12/13/1999.

#### ***Drawings***

5. The Examiner contends that the drawings submitted on 3/28/2001 are acceptable for examination proceedings.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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7. Claims 1-2 and 7-17 are rejected under 35 U.S.C. §102(a) as being anticipated by NOWTHIS.COM (nowthis.com blog, dated 11/24/1999), hereinafter referred to as nowthis.
8. Nowthis disclosed, specifically, Amazon.com having implemented “x people found this review helpful. Y did not. Was it helpful to you? [YES] [NO]”. See, Page 2. This specifically provided interactive element features as claimed, count tabulation, and since the sentence references “x people”, it must be presumed that each person is entitled to only a single vote, since a second vote from the same person would not increase the number of “people” referenced.
9. Claims 1-2 and 7-17 are rejected.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-2 and 7-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Epinions (www.epinions.com, October 12, 1999), hereinafter referred to as Epinions, in view of Salas et al. (U.S. Patent Number 6,230,185), hereinafter referred to as Salas.
12. Epinions taught a method for identifying valuable product/service reviews review(s) as being helpful as evidenced by the “Rating Summary”, reporting “Rated Very Useful by:”, and “Rated Useful by:”, displaying further degrees of usefulness. See Pages 9 and 10. The total number of reviews which were available for review by a user was tabulated, and reported,

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additionally, for each individual degree of usefulness. Since both percentage and actual review voting tabulation was evident, the presence of the number of indications was clearly evident. See prior Office action for particular limitation mapping to the applied art. The provision for an “interactive element” was included in the broad teachings as set forth by Epinions, since the invention operated in a typical GUI, and Internet browser application. The application itself was an interactive element which accepted and effected input from user clients. Since the review, voting, and all other user input came from a user, the “interactive” functionality of the interface is inherent.

13. While Epinions disclosed the invention substantially as claimed, Epinions did not expressly disclose the prohibition of a user to indicate usefulness of a review only once. That is, Epinions did not expressly disclose the incrementing of a count only when “the number of indications does not exceed one indication from the user.” However, since Epinions gathered voted opinions and was enabled for usage in a typical Internet browser application, and utilized well known and widely implemented HTML markup language for presentation dictation, an ordinary artisan would have been motivated to search the related arts to isolate teachings dealing directly with web page technology which disclosed specifics of the voting mechanism(s) available at the time of invention.

14. In these arts, Salas specifically disclosed a voting/polling mechanism utilized in typical HTML documents acting to optionally limit input from particular user(s) to one (1). See, inter alia, Column 16, Lines 33-54. Since this operated within the confines of typical HTML, implementation would have been routine and obvious to one of ordinary skill in the art at the time of invention.

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15. Thus, the reviewing of posted reviews, maintaining the reviews, counts of the reviews, and reviews of the reviews, along with the provision for limiting the number of valid voting opportunities for a particular user was fully disclosed by the combination of Epinions and Salas.

16. Claims 1-2 and 7-17 are rejected.

***Response to Arguments***

17. The arguments presented by Applicant in the response, received on 6/1/2004, are not considered persuasive.

1. Applicant asserts that the prior art of record did not disclose an “interactive element”, the “incrementing a count...of indications”. Examiner whole-heartedly disagrees with the position set forth by Applicant, since www.epinions.com is expressly implemented within a typical Internet browser, intrinsically incorporating a user “interactive element”. Second, the count of the number of review votes which have been tabulated was expressed both numerically, but rationally, as a percentage.

2. Applicant asserts that the provision for allowing the system to limit the indications to one for a particular user was absent from the prior art of record. It is submitted that this feature was not only expressly disclosed by, inter alia, Salas, as applied above, but would have been obvious to one of ordinary skill in the art at the time of invention. Providing a person with one, and only one vote, has been a concern since the earliest of elections known to mankind. Since this feature was expressly disclosed in a suitable environment for implementation in a browser application, it is submitted this feature does not constitute a patentable distinction over the prior art of record.

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3. Lastly, there is no evidence that shows that the invention as disclosed and claimed was reduced to practice prior to the prior art of record. The usage of the inventive concept seemingly spanned, minimally, three distinct companies at the time of filing, Amazon.com, Epinions.com, and Deja/dejanews. There is no supporting evidence to support the notion that the inventor invented this functionality or had a working model/product prior to disclosures of the others.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc D. Thompson whose telephone number is 703-308-6750. The Examiner can normally be reached on Monday-Friday, 9am-4pm. Note: The Examiner expects to move to the new PTO site in Carlyle in the next few months, and contact information will change at that time. If not available at the above number, The Examiner can be reached at 571-272-3932. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski, Jr. can be reached on 703-308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MARC D. THOMPSON  
MARC THOMPSON  
PRIMARY EXAMINER

Marc D. Thompson  
Primary Examiner  
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